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QUALCOMM INCORPORATED

11
12 UNITED STATES DISTRICT COURT
13 SOUTHERN DISTRICT OF CALIFORNIA

14 JESSE MEYER, an individual, on his own
behalf and on behalf of all similarly
15 situated,

16 Plaintiff,

17 v.

18 QUALCOMM INCORPORATED, a
Delaware corporation,

19 Defendant.
20
21

Case No. 08cv0655-WQH (LSP)

**DECLARATION OF DUANE L. LOFT IN
SUPPORT OF QUALCOMM'S MOTION
TO TRANSFER**

**NO ORAL ARGUMENT UNLESS
REQUESTED BY THE COURT**

Date: June 2, 2008
Time: 11:00 a.m.
Judge: Hon. William Q. Hayes

22 I, DUANE L. LOFT, declare under penalty of perjury as follows:

23 1. I am associated with Cravath, Swaine & Moore LLP, counsel for Defendant
24 Qualcomm Incorporated ("Qualcomm") in the above-captioned action. I am a member of the bar
25 of the State of New York and have been appointed pro hac vice to appear before this Court in this
26 action. I submit this declaration in support of Qualcomm's Motion to Transfer pursuant to 28
27 U.S.C. § 1404(a).

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2. I also represent Qualcomm in the action captioned *Broadcom Corp. v. Qualcomm Inc.*, No. 05-CV-3350 (D.N.J.) (the "NJ Action"), and have personal knowledge of the following.

3. On July 1, 2005, Broadcom Corporation ("Broadcom") filed its initial complaint in the NJ Action and, on September 19, 2005, filed its First Amended Complaint.

4. On August 31, 2006, the United States District Court for the District of New Jersey entered an order granting Qualcomm's motion to dismiss Broadcom's First Amended Complaint.

5. On September 4, 2007, the United States Court of Appeals for the Third Circuit affirmed in part, and reversed in part, the district court's August 31, 2006 dismissal of Broadcom's First Amended Complaint.

6. On November 2, 2007, Broadcom filed its Second Amended Complaint in the NJ Action, a true and correct copy of which is attached hereto as Exhibit 1. Broadcom's Second Amended Complaint added new state law causes of action as well as new allegations.

7. Subsequent to the filing of Broadcom's Second Amended Complaint in the NJ Action, Qualcomm has completed its production of documents in response to Broadcom's First Request for the Production of Documents, served in October 2005. Also since the filing of its Second Amended Complaint, Broadcom has completed its production of documents in response to Qualcomm's First Request for the Production of Documents, served in November 2005, and in response to Qualcomm's Second Request for the Production of Documents, served in April 2006.

8. On January 9, 2008, Qualcomm served its Third Request for the Production of Documents on Broadcom. On January 18, 2008, Broadcom served its Second Request for the Production of Documents on Qualcomm. The parties have not begun to collect or produce documents in response to these requests.

9. On April 25, 2008, the Honorable John J. Hughes, Magistrate Judge for the District of New Jersey, conducted a discovery conference. A rough, preliminary version of the transcript of those proceedings is attached hereto as Exhibit 2.

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1 10. On December 21, 2007, Qualcomm served its Amended and Supplemental Initial
2 Disclosures pursuant to Federal Rule of Procedure 26(a)(1), a true and correct copy of which is
3 attached hereto as Exhibit 3.

4 11. On December 21, 2007, Broadcom served its Amended Initial Disclosure pursuant
5 to Federal Rule of Civil Procedure 26(a)(1), a true and correct copy of which is attached hereto as
6 Exhibit 4.

7 12. On February 29, 2008, Qualcomm served Supplemental Disclosures pursuant to
8 Federal Rule of Procedure 26(e), a true and correct copy of which is attached hereto as Exhibit 5.

9 13. Prior to the dismissal of the NJ Action on August 31, 2006, one witness was
10 deposed. Since that time, no witnesses have been deposed by either party.

11 14. Since the NJ Action was commenced on July 1, 2005, including since the filing of
12 Broadcom's Second Amended Complaint, the parties have served various third parties with
13 subpoenas pursuant to Federal Rule of Civil Procedure 45, including Nokia Corporation, Verizon
14 Wireless and Motorola Incorporated.

15 15. On November 30, 2007, the court in the NJ Action entered an Amended Pretrial
16 Scheduling Order, a true and correct copy of which is attached hereto as Exhibit 6.

17 I make this Declaration based upon my own personal knowledge and, if called upon as a
18 witness, would testify competently to the matters stated herein.

19 I declare under the penalty of perjury under the laws of the United States of America that
20 the foregoing is true and correct and that this Declaration was executed on May 1, 2008, in New
21 York, New York.

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23 DUANE L. LOFT